THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1566 of 2004

01-09-2005

Between:

Vasireddy Yesudasu.

.....APPELLANT

AND

Government of Andhra Pradesh, rep. by its Secretary,

Minor Irrigation Department & Others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1566 OF 2004

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard learned Counsel for the parties.

The appellant filed a writ petition seeking a declaration that digging of canals over the land owned and possessed by him, was illegal. The learned Single Judge, after hearing both the parties, disposed of the writ petition with liberty to the petitioner to approach the District Collector and directed the Collector to dispose of the matter.

Case of the appellant is that land owned and possessed by him, was dug to create canals for a tank, whereas the respondents' case was that these canals existed for taking water from the tank, from the inception when the tank was made. The learned Single Judge was right in coming to the conclusion that this was a disputed question of fact, which could not be decided in these proceedings and we do not find any ground to interfere in such a finding.

In these circumstances, we dispose of the writ appeal with a direction to the District Collector, East Godavari District, to dispose of the representation if made, after hearing the appellant and considering the relevant law. The representation may be made by the appellant within a period of three weeks from today. Thereafter, the Collector may dispose it of within four weeks. No order as to costs.

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(BILAL NAZKI, ACJ)

1st September 2005.

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ajr (R.SUBHASH REDDY, J)